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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,460	10/18/2001	Kenneth E. Zick	40027.001	7057
25269	7590	02/02/2004	EXAMINER	
DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005			MISKA, VIT W	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/982,460

Applicant(s)

ZICK, KENNETH E.

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 and 29-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 29-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 7, 29, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by McMannis. The reference discloses a monitoring apparatus including current detector, time recorder 30 and counter 26 for counting the number of starts of an appliance coupled to an AC current detector (col. 2, line 20), hourmeter with display 26.
2. Claims 35, 36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Sworm et al. The reference discloses an apparatus and method of monitoring the electrical appliance run time including power current (cord) 21 being run through monitor 1, time recorder 61 for recording the accumulated time appliance 59 has been energized.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4-6 and 8-10, are rejected under 35 U.S.C. 103(a) as being unpatentable over McMannis in view of Carmichael et al. With respect to claims 4 and 8, display 26 in McMannis is of the mechanical counter type. One skilled in the art however, would be familiar with other display devices suitable for displaying time in McMannis. Carmichael et al discloses an hourmeter 10 for displaying on an LCD display the cumulative running time of an engine. One of ordinary skill in the art having both references would have a teaching of using a liquid crystal display as an alternative to the mechanical display in McMannis to reduce power consumption and decrease size of the display. Regarding claim 5, 6, 9 and 10, McMannis does not disclose details of the power supply for monitor 10. In view of Carmichael, one skilled in the art would be taught that a battery could be used to power monitor 10 as a conventional power source.

4. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMannis. The reference does not disclose details of mounting the components of the

recorder. One skilled in the art would recognize that these elements are necessarily mounted to a support surface or chassis for proper support therefor.

5. Claims 13-27, 30, 31, 33, 34, 37 and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sworm in view of McMannis. Sworm discloses an appliance monitor 1, current detector 53 with sensor hole as shown in Fig. 5 and the power lead extending therethrough, time recorder and display 61 for counting accumulated time of usage of appliance 59, chassis 3 for mounting the time recorder components, power cord 21, monitor power receptacle 41 for receiving a power cord of the appliance. The reference does not disclose a counter for counting the number of engine starts. This feature, however is conventional as noted above in McMannis. One skilled in the art having both references would thus provide a counter and indicator for displaying the number of appliance starts in Sworm in addition to the time as a useful quantity for monitoring usage of the appliance and shown in McMannis.

6. With respect to claims 15 and 30, the monitor in Sworm is not directed to specific appliance but may be used in a variety of environments. Thus, a pump would be one of such appliances to which monitor 1 may be applied. With respect to the remaining claims, details of the cord looping through the sensor hole would be obvious to those familiar with detector design and would be selected for optimum detector response. Voltage is produced at 55, 57 in Sworm in response to detector output. The specific current and voltage ranges claimed would be selected by one skilled in the art to correspond to specific detectors and appliances to which the monitor is attached. The

Art Unit: 2841

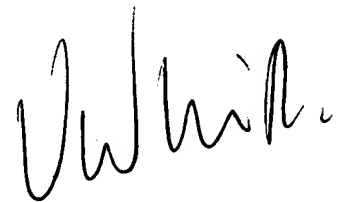
specific current detector, hour meter and counter of claim 34 are well known, as recognized by applicant and would be suitable for use in the Sworm monitor.

7. It is noted that claim 28 is not included with the originally submitted claims. Thus, claims 29-42 should be renumbered as claim 28-41, respectively in applicant's response.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 703-308-3096. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 703-308-3121. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.



Vit Miska  
Primary Examiner